IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE.

CRIMINAL APPEAL NO. 108 OF 1992.

The State of Maharashtra. ..Appellant.

vs.

Ramakant Sadashiv Marathe ..Respondent.

Shri D.P. Adsule, A.P.P. for the State.
Shri S.B. Shetye for the respondent-accused.

CORAM: V.M.KANADE,J.
DATED: 14-1-2005.

ORAL JUDGMENT:

1. The State has filed this appeal challenging the judgment and order passed by the Chief Judicial Magistrate, Sindhudurg in Regular Criminal Case No. 84 of 1990. By the said judgment and order dated 16th November 1991, the trial Court has acquitted the accused of the offence punishable under section 420 of the Indian Penal Code.

2. The prosecution case is that the complainant used to reside with his sister-in-law and niece at Ajgaon. The complainant wanted to purchase a land and a house and he informed the accused about his intention to purchase the house. Accused informed the complainant that one house was available for sale at Malvan. Accordingly, the accused showed the complainant the said house which belongs to one

Shivram Raje Bhosale. The accused informed the complainant that owner of the house had agreed to sell the property for Rs.51,000/-. He also showed copy of 7/12 extract of the land to the accused. Thereafter, it is alleged by the prosecution that an amount of Rs. 21,000/- was paid to the accused on 18.8.1988 in the Tahasildar's office and agreement was executed which was signed by the accused and the complainant. The prosecution case further is that the accused did not complete the transaction and deceived the complainant. Therefore, complaint was filed against the accused.

3. The learned A.P.P. took me through the judgment of the trial Court and also evidence adduced by the prosecution. The trial Court has observed that payment of Rs. 21,000/- was not proved beyond reasonable doubt and contradictory versions were given by different witnesses. Further trial Court has observed that in the agreement of sale no time limit was fixed for completing transaction. The trial Court, therefore, observed that ingredient of section 415 was not established.

4. I have perused the evidence and it can be seen that three different versions have been given by the witnesses regarding place of payment of amount to the accused. Thus, prosecution has not proved beyond reasonable doubt that the accused had committed

offence of cheating punishable under section 420 of the Indian Penal Code. There is no merit in the submissions made by the learned A.P.P. for the State.

5. Appeal is accordingly dismissed.